

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,
Plaintiff,

v.

CIVIL ACTION NO. 3:17-01362

AMERISOURCEBERGEN
DRUG CORPORATION, et al.,
Defendants.

CABELL COUNTY COMMISSION,
Plaintiff,

v.

CIVIL ACTION NO. 3:17-01665

AMERISOURCEBERGEN
DRUG CORPORATION, et al.,
Defendants.

**ORDER GRANTING AMERISOURCEBERGEN DRUG CORPORATION'S
MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND COMMUNICATIONS
FROM THE BOARD OF EXAMINERS FOR LICENSED PRACTICAL NURSES**

On May 15, 2020, came AmerisourceBergen Drug Corporation (“ABDC”) and filed a *Motion to Compel Production of Documents and Communications from the Board of Examiners for Licensed Practical Nurses* and an accompanying Memorandum in Support. ABDC requested that this Court enter an order compelling the Board of Examiners for Licensed Practical Nurses (“LPN Board”) to provide any and all documents responsive to the subpoena served upon them by ABDC. In support of its Motion, ABDC stated as follows:

1. Defendant ABDC seeks the production of documents and communications responsive to its Subpoena to Produce Documents, Information, or Objections (“the Subpoena”) to the Board of Examiners for Licensed Practical Nurses (“LPN Board”), which was served on March 13, 2020.

2. ABDC has attempted to contact the LPN Board multiple times through several different mediums, all without answer. Counsel attempted to reach the LPN Board by telephone on March 30, April 2, and April 6, 2020. On April 8, 2020, counsel for ABDC sent a letter to the LPN Board noting the delinquent nature of the LPN Board’s response to the Subpoena. On April 27, 2020, a follow-up e-mail was sent to Ms. Mayhew, Executive Director of the LPN Board, referencing the April 8, 2020 letter and requesting that the LPN Board respond.

3. The LPN Board’s deadline for responding or objecting to the Subpoena was March 27, 2020. As of the time of the filing of the subject motion, the LPN Board had not produced the requested information, served written objections, or otherwise responded to any of defense counsel’s attempts to reach the LPN Board regarding its failure to comply with the Subpoena.

Based upon the above, this Court FINDS as follows:

1. The Federal Rules of Civil Procedure permit a party to issue subpoenas for the production of documents and other things from nonparties. See Fed. R. Civ. Pro. 45(a)(1)(C); Fed. R. Civ. P. 34(c). Pursuant to Rule 45(d)(2)(B)(i), “[a]t any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.”

2. As of the filing of this Motion, the LPN Board has provided no information or documents responsive to ABDC’s Subpoena. Further, the Court notes that the LPN Board has not filed a response in opposition to ABDC’s Motion.

3. Accordingly, the LPN Board is hereby **DIRECTED** to produce documents and materials that are responsive to the subject Subpoenas no later than **June 30, 2020**.

The Clerk is directed to send copies of this Order to counsel of record.

IT IS SO ORDERED this 15th day of June 2020.

ENTERED:

Christopher C. Wilkes
Special Master